IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.1.2002

Coram:

THE HONOURABLE MR. JUSTICE M. KARPAGAVINAYAGAM

CRL.R.C. No.1534 of 2001 and CRL.M.P. No.8047 of 2001

Prema Veeraraghavan .. Petitioner

Vs.

1. State by the
Inspector of Police,
K-10 Koyambedu P.S.
Chennai.

2. Mani .. Respondents

Revision against the order dated 2.11.2001 in Crl.M.P.No.5145 of 200 1
on the file of the V Metropolitan Magistrate, Chennai.

! For Petitioner : Mr.P.N.Prakash

^ For R-1 : Mr.E.Raja,
Addl.Public Prosecutor.

For R-2 : Mr.Ethirajulu

: ORDER

The order dated 2.11.2001 passed by the V Metropolitan Magistrate, Chennai, returning the buffaloes in favour of the second respondent, who claimed to be the owner of the same, is challenged in this revision by Prema Veeraraghavan, Expert Consultant, Committee for the Purpose of Control and Supervision of Experiments on Animals (CPCSEA), the first informant, the petitioner herein.

2. The facts leading to the filing of the present revision are as follows:-

(a) The petitioner is an Expert Consultant, CPCSEA, Government of

India, on the subject of regulating experimentation on animals. On 24 .10.2001, on getting information that a lorry packed with 18 buffaloes was on transit from Red Hills area, the petitioner spotted the said lorry near Koyambedu and she got shocked to notice that all the 18 buffaloes were stacked over the other and tied with a rope in a row through their nostrils and packed in an inhuman manner in the lorry.

(b) Immediately, the petitioner lodged a complaint with the first respondent-police, which was registered for the offences under Sections 428 and 429 I.P.C. and Section 11 of the Prevention of Cruelty to Animals Act, 1960. The said lorry and the 18 buffaloes were seized. At that time, one of the buffaloes was found dead. After investigation, the first respondent-police handed over the buffaloes to the Blue Cross of India, which is recognised by the State and the Central Governments, for custody.

(c) On 30.10.2001, one Mani, the second respondent herein, claiming himself to be the owner of the buffaloes, filed an application under Section 451 Cr.P.C. before the lower Court for the return of the buffaloes. The said application was ordered on 2.11.2001 directing for the return of 18 buffaloes to the second respondent as interim custody, even without informing to the first respondent or the Blue Cross of India.

(d) On coming to know about the same, the petitioner filed an application before the lower Court on 6.11.2001 praying for suitable direction to call for a report of fitness and expenses incurred from the Blue Cross of India. The learned Magistrate, though ordered notice in the said petition on 6.11.2001, accepted the surety bond from the second respondent for the release of the cattle.

(e) At that stage, the petitioner approached this Court by filing a petition under Section 482 Cr.P.C. for direction to the learned V Metropolitan Magistrate, Chennai to dispose of the application filed by the petitioner. Accordingly, this Court on 7.11.2001 passed an order giving direction not to release the cattle before the disposal of the application filed by the petitioner. Thus, the release of the cattle was restrained in time. As such, the cattle are in safe custody of the Blue Cross of India. In the meantime, the petitioner obtained the certified copy of the order dated 2.11.2001 and filed this revision.

3. I heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

4. On considering the submissions made by the counsel for the parties and on perusal of the Case Diary, it is noticed that the 2nd respondent would not be entitled to the custody of the buffaloes in view of Section 29 (3) of the Prevention of Cruelty to Animals Act.

5. The above Section would provide that the custody of the animal could not be given to any of the persons, who are accused of the offence.

6. On going through the Case Diary and other records, it is clear that 18 buffaloes were packed in a lorry in violation of the Transport of Animal Rules, 1978. The buffaloes were kept jam-packed with a rope fastened through their nose and out of 18 buffaloes, one died. So, it is clear that the offence has been committed under the Prevention of Cruelty to Animals Act.

7. Even according to the first respondent in the petition before the lower Court, he only arranged for the transport of the buffaloes to be taken to Andhra Pradesh for agricultural purpose. It is the contention of the petitioner that these buffaloes were to be taken to Kerala for butchering.

8. Under Rules 47 to 56 of the Transport of Animal Rules, 1978, no goods vehicle should carry more than six cattle and there should be a valid certificate by a qualified Veterinary Surgeon that the animals are fit to travel and each consignment should bear a label showing the name and address of the consignor and the consignee. Admittedly, in this case, 18 buffaloes were transported in a single lorry without any certificate in violation of the Rules.

9. Moreover, the second respondent, who claimed to be the owner of the buffaloes and arranged for the transport of the said buffaloes, is also a party to the said offence and he has also been arrayed as an accused. Under those circumstances, the second respondent is not entitled to the interim custody of the buffaloes.

10. Therefore, the impugned order dated 2.11.2001 is set aside and the Criminal Revision Case is allowed. Consequently, Crl.M.P.No.8047 of 2001 is closed.

22-1-2002 Index:
Yes/No dpp

To:
1.The V Metropolitan Magistrate, Egmore, Chennai.

2.-do-Through the Chief Metropolitan Magistrate, Egmore, Chennai.

3.The Public Prosecutor, High Court, Chennai.
M. KARPAGAVINAYAGAM, J.

Order in
Crl.R.C. No. 1534 of 2001

22-1-2002